

ATTACHMENT J

ENGROSSED ORIGINAL

A BILL

13-284

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish a timeframe for the implementation of customer choice in the electricity supply market; to give the Commission the discretion to implement customer choice on a single date; to allow the Commission to accelerate or delay the implementation timeframe for considerations of reliability, safety, or market power; to allow for the implementation of a pilot program; to allow the District of Columbia and its agencies and instrumentalities to purchase electricity at the earliest possible opportunity after the initial implementation date; to prevent the implementation of customer choice until the passage of applicable tax legislation; to implement competitive billing for retail electric customers; to allow competitive billing to be a part of a pilot program; to require that the Commission's oversight of the transition process and regulation of the restructured industry assure orderliness, electric system reliability, and consideration of the interests of customers, electric companies, and electric suppliers; to require the Commission to adopt all required regulations and issue all required orders prior to the implementation of customer choice; to require the Commission to issue regulations or orders implementing competitive billing; to require the Commission to issue regulations or orders govern the licensing of electricity suppliers and other market participants; to require the Commission to issue regulations or orders giving open-access to the electric company's distribution system; to require the Commission to issue regulations or orders implementing the consumer protections established by the act; to require the Commission to issue regulations or orders establishing procedural rules for complaints, investigations, and dispositional hearings; to require the Commission to issue regulations or orders governing market power proceedings; to require the Commission to issue regulations or orders establishing universal service, energy efficiency, and renewable source programs; to require the Commission to issues regulations or orders governing the construction of electric generating facilities; to require the Commission to determine the feasibility of requiring an electricity supplier to disclose its fuel mix to customers every six months; to order each electricity supplier to disclose to its customers every six months the fuel mix of the electricity purchased by those customers or a regional fuel mix average; to require the Commission to unbundle the electric company's rates, charges, and services into standardized categories; to require the Commission to order that customers' bills indicate, as an individual line item, charges for electricity supply; to require the

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Commission to establish reasonable regulations on telemarketing, procedures for
formation of contracts between residential and small commercial customers and
electricity suppliers, and requirements and limitations relating to deposits, billing, and
contract cancellations; to require the Commission, the electric company, the Office of
the People's Counsel, and the District of Columbia Office of Energy to establish a
consumer education program; to require the Commission to maintain certain information
on the rates and services of electricity suppliers; to allow the Commission to resolve any
dispute involving the mandated consumer education program; to allow the Commission
to issue any other regulations or orders necessary to ensure the development of a
competitive market for electricity supply, billing, or any component of electric service
declared by the Commission to be a potentially competitive service; to allow the
Commission to regulate an electric company's regulated services through alternative
forms of regulation; to allow the Commission to deregulate components of electric
service other than electricity supply, electricity supply service, and billing; to require all
electricity suppliers doing business in the District of Columbia to hold a license issued by
the Commission; to require that an application for a license be in writing, be verified by
oath or affirmation, be accompanied by an application fee, contain proof of technical or
managerial competence, contain proof of compliance with all FERC and independent or
regional system operator requirements; contain proof of compliance with all applicable
federal and District of Columbia environmental laws, contain proof of financial integrity,
contain proof that the applicant has registered to do business in the District of Columbia
with the Department of Consumer and Regulatory Affairs, contain an agreement to be
subject to all applicable taxes and to comply with all requirements of this act and all
regulations or orders issued by the Commission pursuant to this act, and contain any
other information required by the Commission; to require the Commission to compel an
applicant to post a bond or similar instrument under certain circumstances; to require the
Commission to establish the duration of a license; to require the Commission to establish
other necessary requirements for an applicant; to prohibit the transfer of a license
without the prior approval of the Commission; to require that all licensing fees and other
monies collected by the Commission pursuant to the licensing provision of the act be
used solely by the Commission; to allow the Commission to require that a consolidator
provide certain information with the Commission; to require that the electric company
provide access to its distribution system to all customers and electricity suppliers on non-
discriminatory terms, and at non-discriminatory rates; to require that the electric
company maintain the reliability of its distribution system in accordance with the
requirements of the Commission; to prohibit a market participant from disclosing certain
information about a retail electric customer without written permission; to prohibit a
market participant from using certain information about a customer for a purpose other
than the one for which it was acquired without the customer's written permission; to

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prohibit a market participant from changing a customer's electricity supplier or adding
new services or charges without the customer's consent; to prohibit a market participant
from engaging in deceptive or unfair trade practices, discriminating against a customer
because of race, color, creed, national origin, sex, or sexual orientation, or refusing to
serve a customer for reasons not reasonably related to the market participant's economic
and business purposes; to require a market participant to provide adequate and accurate
information on its services and charges, and to post certain information on the Internet;
to allow the Commission to take certain punitive or remedial measures against a market
participant for violations of this act or violations of regulations promulgated pursuant to
this act; to establish the parameters of monetary penalties imposed on market
participants; to allow the Commission to take certain temporary remedial measures
against market participants; to require a market participant to provide certain
information to the Commission in connection with an investigation; to define standard
offer service; to provide that the electric company shall provide standard offer service
for a defined transition period at a capped rate; to allow the Commission to reduce the
standard offer rate below the cap under certain conditions; to allow the electric company
to recover any extraordinary costs during the rate cap period; to provide for the selection
of a standard offer service provider after the defined transition period; to allow the
electric company to recover its prudently-incurred and verifiable net transition costs
through a competitive transition charge; to require the Commission to hold a public
hearing and consider certain evidence when making a determination of transition costs;
to require the Commission to consider certain factors when determining which transition
costs are recoverable; to require the Commission to conduct an annual review of market
conditions, and to reconcile those conditions to any authorized competitive transition
charge; to allow the electric company to recover costs for public purpose programs; to
require the Commission and the Office of the People's Counsel to monitor the relevant
markets for anticompetitive conduct and anticompetitive conditions, and to transmit
evidence of such conduct or conditions to the Office of the Corporation Counsel and
relevant federal agencies; to allow the Commission to take remedial action regarding
anticompetitive conduct and anticompetitive conditions resulting from transmission
constraints or load pockets; to require the Office of the Corporation Counsel to file a
report with the Council of the District of Columbia within a certain time after receipt
from the Commission or the Office of the People's Counsel of evidence of
anticompetitive conduct or anticompetitive conditions; to allow the Commission to
participate in any organizations, or enter into any agreements formed for the purpose of
monitoring and preventing the acquisition or exercise of market power in the regional
interconnection serving the District of Columbia; to prohibit electric company from
engaging in the business of an electricity supplier except through an affiliate; to prohibit
an affiliate of an electric company from engaging in the business of an electricity

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supplier unless the Commission, after a hearing, makes certain findings; to require a
code of conduct between an electric company and its affiliate if the affiliate is allowed to
engage in the market as an electricity supplier; to require the Commission to develop
regulations governing an application of an electric company affiliate to engage in the
market as an electricity supplier; to establish a Reliable Energy Trust Fund to support
the universal service, energy efficiency, and renewable energy programs mandated by
this act; to require the funding of the Reliable Energy Trust Fund through the application
of non-bypassable charge to be determined by the Commission and collected by the
electric company; to cap the charge to any customer for the Reliable Energy Trust Fund
at \$0.004 per kilowatt-hour; to require the establishment by the Commission of a
universal service program to be administered by the District of Columbia Office of
Energy to assist low-income ratepayers; to require the establishment by the Commission
of a program to promote energy efficiency in the District of Columbia; to require the
establishment by the Commission of a program to promote the use of electricity from
renewable sources; to allow the universal service, energy efficiency, and renewable
source programs mandated by this act to be combined with any existing universal
service, energy efficiency, or renewable source programs; to allow the development of
an opt-in municipal aggregation program to be administered by the Mayor; to require the
Office of the People's Counsel to provide assistance to persons seeking to implement
customer-based aggregation program; to allow the Commission to adopt any reasonable
regulations relating to customer-based aggregation programs; to prohibit a person from
constructing an electric generating facility in the District of Columbia for the purpose of
the retail or wholesale sale of electricity absent a determination by the Commission that
the electric generating facility is in the public interest; to require electricity suppliers to
report to the Commission every six months on the fuel mix of their electricity and on the
amount of their electricity which comes from renewable energy sources; to require the
Commission to track the fuel mix of the electricity sold in the District of Columbia, and
the amount of electricity from renewable sources sold in the District of Columbia; to
require the Commission to provide periodic reports to the Council on the fuel mix of the
electricity sold in the District of Columbia, the amount of electricity from renewable
energy sources sold in the District of Columbia, and on the feasibility of requiring
electricity suppliers to provide a minimum percentage of electricity from renewable
energy sources; to allow for the establishment of a net energy metering program; to
require that the Commission ensure that a sale by the electric company of any or all of its
assets not affect the reliability of electricity supply in the District of Columbia, and not
increase market power problems in a deregulated market; to require the electric
company to offer its electric generating facilities in the District of Columbia for sale to
the District of Columbia Government before offering those electric generating facilities
for sale on the open market; to prohibit the electric company from selling its generation

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assets to an affiliate of the electric company; to mandate that the electric company
transfer any unauctioned generation assets to an affiliate prior to the initial
implementation date; to require that the Commission establish a code of conduct
governing relations between the electric company and the affiliate to which any
unauctioned generation assets are transferred; to amend the Public Utilities Act of 1913
to revise the definitions of "Commission", "public utility", "person", "electric plant" and
"electrical corporation"; to delete the definition of "waterpower company" in its entirety;
to add a definition of "electric generating facility"; to include electric companies in the
prohibition against receiving compensation in excess of approved rates; to clarify that
public utilities are prohibited from rendering services for free or less than approved rates;
to clarify that the Commission may act jointly with any official board or commission of
the United States or any state in any proceeding against a public utility; to include
electric companies and electricity suppliers in the provisions governing the termination of
services to an apartment house; to authorize the appointment of a receiver to collect rents
from tenants when delinquent bills from electric distribution companies and electricity
suppliers remain unpaid; to prohibit electric companies from violating the provisions of
Chapter 5 of Title 43; to prohibit electric companies and electricity suppliers from
terminating service to an apartment house without a finding by the Commission; to
clarify that the Commission may investigate any public utility for charging unreasonable
or unjustly discriminatory rates; to clarify that in a rate case, neither the Commission nor
the Office of the People's Counsel may seek franchise tax deposits in excess of .25% of
the jurisdictional value of the company it is investigating; to require electricity suppliers
to pay a reimbursement fee to the Commission; to clarify that when there is more than
one rate or charge complaint made against a public utility, the Commission may conduct
separate hearings; to clarify that the Commission may conduct a summary investigation
against any public utility for suspicion of unreasonable rates or charges; to clarify that it
is unlawful for any electric company or other public utility to acquire the stock or bonds
of any other corporation engaged in the same or similar business unless authorized by the
Commission; to include electric distribution companies within the jurisdiction of the
Commission; to require a person to obtain permission and approval of the Commission
prior to commencing certain construction; to require persons furnishing gas and electric
meters to provide suitable premises and facilities for testing and proving the accuracy of
those meters; to include excessive electric distribution charges as a complete defense in a
collection action; to delete provisions fixing the maximum price of electric current and
additional charges for the nonpayment of bills; to grant court-appointed receivers the
authority to apportion rents collected to the payment of debts owed by landlords to
electric distribution companies and electricity suppliers; to exclude facilities used by
electric companies solely for operating their electricity distribution systems from the
definition of "cable television system"; to exclude the normal extension of electric

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distribution company service from the definition of "action"; to repeal certain provisions relating to cogeneration facilities; to amend § 1-1019 of the D.C. Code to exclude electric companies and electricity suppliers from regulation under D.C. Code §§ 1-1019 to 1-1021; to amend § 5-804(d)(1) of the D.C. Code to revise the definition of the term "utility"; to amend § 1-1019 of the D.C. Code to exclude electric companies and electricity suppliers from regulation under D.C. Code §§ 1-1019 to 1-1021; to amend § 5-804(d)(1) of the D.C. Code to revise the definition of the term "utility"; to amend § 7-135 of the D.C. Code to revise the definition of the term "utility".

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Retail Electric Competition and Consumer Protection Act of 1999".

TITLE I - GENERAL PROVISIONS

Sec. 101. Definitions.

For the purposes of this act, the term:

(1) "Affiliate" means a person who directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with, or has directly or indirectly, any economic interest in another person.

(2) "Aggregator" means a person who acts on behalf of customers to purchase electricity.

(3) "Aggregation program" means any system developed by an aggregator for organizing customers into a single purchasing unit.

(4) "Anticompetitive condition" means a condition which would allow a party to:

(A) Exercise vertical or horizontal market power;

(B) Use the ownership or control of a regulated facility to favor an

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unregulated affiliate or subsidiary or to discriminate against a non-affiliated entity;	1
(C) Erect a barrier to entry; or	2
(D) Compete unfairly or deny effective competition to consumers.	3
(5) "Anticompetitive conduct" means an activity which would:	4
(A) Violate any applicable antitrust law;	5
(B) Constitute favorable treatment of an affiliate;	6
(C) Discriminate against a non-related entity;	7
(D) Constitute a barrier to entry; or	8
(E) Confer an unfair competitive advantage on an entity.	9
(6) "Bid premium" means a payment by an electricity supplier to the	10
Commission for the right to provide standard offer service in the District of Columbia.	11
(7) "Broker" means a person who acts as an agent or intermediary in the sale and	12
purchase of electricity but who does not take title to electricity.	13
(8) "Competitive billing" means the right of a customer to receive a single bill ✓	14
from the electric company, a single bill from the electricity supplier, or separate bills from the	15
electric company and the electricity supplier.	16
(9) "Commission" means the Public Service Commission of the District of	17
Columbia.	18
(10) "Competitive Transition Charge" means a rate, charge, credit, or other	19
appropriate mechanism authorized to be imposed for the recovery of transition costs as	20

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determined by the Commission pursuant to section 109.

(11) "Consolidator" means any owner of or property manager for multi-family residential, commercial office, industrial, and retail facilities who combines more than one property for the primary purpose of contracting with an aggregator or electric energy service provider for electric energy services for those properties, and who:

(A) does not take title to electric energy;

(B) does not sell electric energy to buildings not owned or managed by such owner or property manager;

(C) does not offer aggregation of electric energy services to other, non-related end-users; and

(D) arranges for the purchase of electric energy services only from duly licensed electric energy service providers or aggregators.

(12) "Consumer" or "customer" each means a retail electric customer.

(13) "Customer-based aggregation program" means a program in which customers pool their loads to shop more effectively for electricity supply, electricity supply services, or any service declared to be a potentially competitive service pursuant to section 105(e) of this act.

(14) "Customer choice" or "choice of electricity suppliers" each means the right of electricity suppliers and consumers to use and interconnect with the electric distribution system on a nondiscriminatory basis in order to distribute electricity from any electric supplier to

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any customer. Under this right, consumers shall have the opportunity to purchase electricity
supply from their choice of licensed electricity suppliers.

(15) "Customer-generator" means a residential or commercial customer that
owns and operates an electric generating facility that:

(A) has a capacity of not more than 100 kilowatts;

(B) uses renewable resources, cogeneration, fuel cells, or microturbines;

(C) is located on the customer's premises;

(D) is interconnected with the electric company's transmission and
distribution facilities; and

(E) is intended primarily to offset all or part of the customer's own
electricity requirements.

(16) "Effective competition" means, with respect to the markets for electricity
supply, billing, and those services declared by the Commission to be potentially competitive
services under section 105(e), a market structure under which an individual seller is not able to
influence significantly the price of the service as a result of the number of sellers of the service,
the size of each seller's share of the market, the ability of the sellers to enter or exit the market,
and the price and availability of comparable substitutes for the service.

(17) "Electricity supplier" means a person, including an aggregator, broker, or
marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or, markets
electricity for sale to customers. The term excludes the following:

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- (A) Building owners, lessees, or managers who manage the internal
distribution system serving such building and who supply electricity solely to occupants of the
building for use by the occupants;
- (B) Any person who purchases electricity for its own use or for the use of
its subsidiaries or affiliates, or any apartment building or office building manager who
aggregates electric service requirements for his or her building or buildings, and who does not
take title to electricity, market electric services to the individually-metered tenants of his or her
building, or engage in the resale of electric services to others;
- (C) Property owners who supply small amounts of power, at cost, as an
accommodation to lessors or licensees of the property; and
- (D) A consolidator.
- (18) "Initial implementation date" means the first day on which customers in the
District of Columbia shall have the ability to choose an electricity supplier. Unless accelerated
or delayed by the Commission pursuant to section 103(c) of this act, the initial implementation
date shall be January 1, 2002.
- (19) "Marketer" means a person who purchases and takes title to electricity as an
intermediary for sale to customers.
- (20) "Market participant" means any electricity supplier (including an affiliate of
the electric company) or any person providing billing services or services declared by the
Commission to be potentially competitive services under section 105(e).

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(21) "Net energy metering" means measuring the difference between the electricity supplied to an eligible customer-generator from the electric grid and the electricity generated and fed back to the electric grid by the eligible customer-generator.

(22)(A) "Pilot program" means a transitional program approved by the Commission prior to the initial implementation date, under which customer choice is implemented for a percentage of each customer class.

(23) "Potentially competitive service" means a component of electric service (other than electricity supply and billing) determined by the Commission to be suitable for purchase by customers from alternative sellers under section 104(e) of this act.

(24)(A) "Public purpose program" means a program implemented with the intention of furthering a public purpose.

(B) "Public purpose program" includes:

- (1) A universal service program;
- (2) A program encouraging renewable energy resources;
- (3) A demand side management or other energy efficiency or conservation program; and

(4) A consumer education program.

(25) "Retail electric customer" means a purchaser of electricity for end use in the District of Columbia. The term excludes an occupant of a building where the owner, lessee, or manager manages the internal distribution system serving the building and supplies electricity

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solely to occupants of the building for use by the occupants.

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(26) "Schedule" means a list of the dates on which each customer class, or a designated percentage of each customer class, is eligible for customer choice and competitive billing.

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(27) "Standard offer service" means that electric service mandated by section 110 of this act.

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(28) "Transition costs" means costs, liabilities, and investments (including regulatory assets) allocable to the District of Columbia, to the extent such costs, liabilities, and investments traditionally have been or would be recoverable under the existing regulatory structure (with retail rates for the provision of electric service) but which will not be recoverable in the restructured electricity supply market, or which arise as a result of electric industry restructuring and are related to the creation of customer choice.

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Sec. 102. Implementation of customer choice.

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(a) On and after the initial implementation date, the supply and sale of electricity shall not be regulated except as expressly set forth in this act.

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(b)(1) Unless accelerated or delayed pursuant to subsection (c) of this section, customer choice shall begin on the initial implementation date. Customer choice must be available for all consumers, regardless of customer class, no later than 2 years after the initial implementation date.

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(2) Prior to the initial implementation date, the Commission shall determine a

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schedule for the phase-in of customer choice. The Commission may, in its discretion, forego a
phase-in, and make customer choice available for all consumers on the initial implementation
date.

(c) The Commission may delay the initial implementation date based on considerations
of reliability, safety, or market power, but under no circumstances shall the initial
implementation date be delayed beyond January 1, 2003.

(d)(1) Prior to the initial implementation date, the Commission may establish a pilot
program.

(2)(A) A minimum of 10 percent of each customer class shall be eligible to
participate in any pilot program established by the Commission.

(B) Notwithstanding any other provision of this act, any pilot program
established by the Commission may include 100 percent of all commercial customers.

(C) Notwithstanding any other provision of this act, any pilot program
established by the Commission may include competitive billing.

(e) The District of Columbia and its agencies and instrumentalities shall have the right to
petition the Commission prior to the initial implementation date for permission to enter into an
electricity supply contract with any electricity supplier. Purchases of electric power under the
supply contract may commence at any time, and under such terms and conditions, as may be
designated by the Commission.

(f) Notwithstanding any other provision of this act, customer choice, including any pilot

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program under subsection (d) of this section and any supply contract under subsection (e) of this section, may not commence until legislation is enacted to restructure District of Columbia taxes to address the tax implications of electric industry restructuring.

Sec. 103. Competitive billing.

(a) Competitive billing shall begin on the initial implementation date, and shall be implemented according to a schedule to be determined by the Commission. The Commission shall have the discretion to implement competitive billing for all customers on a single date.

(b) This section shall not preclude the Commission from including competitive billing as a part of any pilot program established by the Commission.

Sec. 104. Role, Duties, and Powers of the Commission

(a) The Commission's assessment, approval, and oversight of restructuring plans, pilot programs, and the transition process, and regulation of the restructured electric industry shall ensure orderliness and electric system reliability, and shall take into consideration the interests of customers, electricity suppliers, and the electric company.

(b) Unless otherwise specified, the Commission shall adopt the regulations or issue the orders required under this act before the initial implementation date. This requirement shall not affect the validity of amendments to those regulations or orders adopted after the initial implementation date.

(c)(1) The Commission shall adopt regulations or issue orders to:

(A) Implement competitive billing under section 103;

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(B) Govern the licensing of electricity suppliers and other market	1
participants under section 105;	2
(C)(i) Require access by customers and electricity suppliers to the electric	3
company's distribution system on a non-discriminatory basis in accordance with section 106;	4
and	5
(ii) Prevent the electric company from operating its distribution	6
system in ways that favor the electricity supply of the electric company's affiliates, in accordance	7
with section 106;	8
(D) Implement the consumer protections in section 107;	9
(E) Establish procedural rules for complaints, investigations, and	10
dispositional hearings under section 108;	11
(F) Govern proceedings pursuant to section 112;	12
(G) Establish the universal service, energy efficiency, and renewable	13
source programs mandated by section 114; and	14
(H) Govern the construction of new electric generating facilities under	15
section 116.	16
(2)(A)(i) Under criteria established by Commission regulation or order, the	17
Commission shall determine for each electricity supplier licensed under section 105 whether it is	18
feasible for that electricity supplier to disclose every 6 months the fuel mix of the electricity sold	19
by that supplier in the District of Columbia, including categories of electricity from coal, natural	20

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gas, nuclear energy, oil, hydroelectric, solar, biomass, wind, and other sources. 1

(ii) The Commission shall make a determination of feasibility 2
pursuant to subsection (c)(2)(A)(i) of this section within 6 months after the date an electricity 3
supplier receives a license pursuant to section 105 of this act. 4

(B) If the Commission determines pursuant to subsection (c)(2)(A)(i) of 5
this section that it is feasible for an electricity supplier to disclose the fuel mix of the electricity 6
sold by that supplier in the District of Columbia, the Commission by regulation or order shall 7
require that electricity supplier to disclose every 6 months the fuel mix of the electricity sold by 8
that supplier in the District of Columbia, including categories of electricity from coal, natural 9
gas, nuclear energy, oil, hydroelectric, solar, biomass, wind, and other sources. 10

(C) If the Commission determines pursuant to subsection (c)(2)(A)(i) of 11
this section that it is not feasible for an electricity supplier to disclose the fuel mix of the 12
electricity sold by that supplier in the District of Columbia, the Commission by regulation or 13
order shall require that electricity supplier to disclose to its customers every 6 months a regional 14
fuel mix average. 15

(3) The Commission shall, by regulation or order, require the unbundling of 16
electric company rates, charges, and services into standardized categories determined by the 17
Commission. 18

(4) The Commission shall, by regulation or order, require that customers' bills 19
indicate, as an individual line item, charges for electricity supply. 20

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- (5) The Commission shall issue regulations or orders to: 1
- (A) Establish reasonable restrictions on telemarketing; 2
- (B) Establish reasonable procedures for contracting between residential 3
and small commercial customers and electricity suppliers; and 4
- (C) Establish reasonable requirements and limitations relating to deposits, 5
billing, and contract cancellations. 6
- (6)(A) The Commission shall order the electric company, in conjunction with the 7
Commission, the Office of the People's Counsel, and the District of Columbia Office of Energy, to 8
implement a consumer education program informing consumers of changes in the electric 9
industry. 10
- (B) As part of the consumer education program under this section, the 11
Public Service Commission shall develop and maintain information regarding rates charged and 12
services provided by licensed electricity suppliers to small commercial and residential 13
customers. The information required in this subsection shall be: 14
- (i) Readily understandable and formatted to provide a comparison 15
of rates and services offered by electricity suppliers; and 16
- (ii) Made available to the public through the ordinary means of 17
publication of the Commission, including posting on the Internet. 18
- (C) Any dispute regarding the consumer education program mandated by 19
this section shall be resolved by the Commission. 20

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(7) The Commission may adopt any other regulations or issue any other orders, 1
consistent with the policies enunciated in this act, necessary to ensure the development of a 2
competitive market for electricity supply, billing, and any component of electric service declared 3
to be a potentially competitive service pursuant to subsection (e) of this section. 4

(d)(1) Notwithstanding any other provision of law, the Commission may regulate the 5
regulated services of the electric company through alternative forms of regulation. 6

(2) The Commission may adopt an alternative form of regulation if the 7
Commission finds that the alternative form of regulation: 8

(A) Protects consumers; 9

(B) Ensures the quality, availability, and reliability of regulated electric 10
services; and 11

(C) Is in the interest of the public, including shareholders of the electric 12
company. 13

(3) Alternative forms of regulation may include: 14

(A) Price regulation, including price freezes or caps; 15

(B) Revenue regulation; 16

(C) Ranges of authorized return; 17

(D) Rate of return; 18

(E) Categories of services; and 19

(F) Price-indexing. 20

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(e)(1) The Commission may declare that a component of electric service, other than
electricity supply and billing, is a potentially competitive service if:

(A) Provision of the service by alternative sellers will not harm any class
of customers;

(B) Provision of the service will decrease the cost of providing the
service to customers in the District of Columbia, or increase the quality or innovation of the
electric service to customers in the District of Columbia;

(C) Effective competition in the market for that service is likely to
develop; and

(D) Provision of the service by alternative sellers will not otherwise
jeopardize the safety and reliability of electric service in the District of Columbia.

(2) Any order declaring a component of electric service to be a potentially
competitive service shall provide for the recovery by the electric company of all verifiable costs
that would have been recoverable under the traditional regulatory structure but which will not be
recoverable as a result of the order under subsection (c)(1) of this section.

(f)(1) Nothing contained in this section shall prohibit the Commission from
implementing or modifying a pilot program under section 102(d).

(2) Nothing contained in this section shall prohibit the Commission from
allowing the adoption of a supply contract under section 102(e).

Sec. 105. Licensing requirements.

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- (a) All electricity suppliers must obtain a license issued by the Commission in order to do business in the District of Columbia. 1 2
- (b) An application for an electricity supplier license shall: 3
- (1) Be made to the Commission in writing on a form adopted by the Commission; 4
 - (2) Be verified by oath or affirmation; 5
 - (3) Be accompanied by an application fee determined by the Commission; and 6
 - (4) Contain the following: 7
 - (A) Proof of technical and managerial competence; 8
 - (B) Proof of compliance with all applicable requirements of the Federal Energy Regulatory Commission and any independent system operator or regional or system transmission operator to be used by the applicant; 9 10 11
 - (C) Proof of compliance with all applicable federal and District of Columbia environmental laws; 12 13
 - (D) Proof of financial integrity; 14
 - (E) Proof that the applicant has registered with the Department of Consumer and Regulatory Affairs to do business in the District of Columbia; 15 16
 - (F) An agreement or promise to be subject to all applicable taxes; 17
 - (G) An agreement or promise to comply with all of the requirements of this act, and all orders and regulations of the Commission issued under this act; and 18 19
 - (H) Any other information required by the Commission. 20

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- (c) The Commission shall: 1
- (1) Require an applicant to post a bond or other similar instrument if, in the 2
Commission's judgment, the bond or similar instrument is necessary to insure an applicant's 3
financial integrity; 4
- (2) Establish the duration of a license issued under this section, procedures and 5
requirements for license renewal, and provisions regarding the surrender and lapse of a license; 6
and 7
- (3) Establish any other requirements for an applicant that the Commission 8
determines to be in the public interest. 9
- (d) A license may not be transferred without the prior approval of the Commission. 10
- (e) All monies collected by the Commission under this section shall be used exclusively 11
for the daily operations of the Commission. None of the monies collected by the Commission 12
pursuant to this section may be used for any other purpose. 13
- (f) Notwithstanding any other provision of this act, a consolidator may be required by the 14
Commission to file a statement of intent to serve as a consolidator, and to provide to the 15
Commission such other information as reasonably may be related to the requirements of the 16
Commission for monitoring the activities of such consolidators. 17
- Sec. 106. Duties of the electric company 18
- (a)(1) The electric company shall provide distribution services to all customers and 19
electricity suppliers on rates, terms of access, and conditions that are comparable to the electric 20

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company's own use of its distribution system. The electric company shall not operate its
distribution system in a way that favors the electricity supply of the electric company's affiliates.

(2) To the extent this provision is not preempted by federal law or regulation, the
electric company shall provide transmission services to all customers and electricity suppliers on
rates, terms, and conditions that are comparable to the electric company's own use of its
transmission system.

(b) The electric company shall maintain the reliability of its distribution system in
accordance with applicable orders, tariffs, and regulations of the Commission.

Sec. 107. Consumer protections.

(a)(1) Unless a customer consents in writing, a market participant or the electric
company may not disclose information that:

(A) Is about that customer; and

(B) Was supplied to the market participant or electric company by that
customer.

(2) This restriction shall not apply to lawful disclosures for bill collection or
credit rating reporting purposes.

(b)(1) Unless a customer consents in writing, a market participant or the electric
company may not use information of the type specified in subsection (a)(1) of this section for
any purpose other than the purpose for which the information was originally acquired.

(2) This restriction shall not apply to lawful disclosures for bill collection or

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credit rating reporting purposes. 1

(c) Unless the customer consents, a market participant may not change a customer's 2
electricity supplier. 3

(d) Unless the customer consents, a market participant may not add services or new 4
charges to a customer's existing retail electric service options. 5

(e)(1) A market participant may not engage in marketing, advertising, or trade practices 6
that are unfair, false, misleading, or deceptive. 7

(2) A market participant must provide adequate and accurate information to each 8
customer about the market participant's available services and charges. 9

(f) A market participant may not discriminate against any retail electric customer based 10
wholly or partly on the race, color, creed, national origin, sex, or sexual orientation of the retail 11
electric customer, or for any arbitrary, capricious, or unfairly discriminatory reason. 12

(g) A market participant may not refuse to provide service to a customer except by the 13
application of standards that are reasonably related to the market participant's economic and 14
business purposes. 15

(h) A market participant shall post on the Internet information that is readily 16
understandable about its services and rates for small commercial and residential electric 17
customers. 18

Sec. 108. Investigation of violations, penalties for violations. 19

(a) For a violation of any provision of this act or a violation of any regulation or order 20

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issued under this act, after notice and a hearing, the Commission may: 1

(1) Suspend or revoke a license of a market participant; 2

(2) Impose a civil penalty on a market participant or the electric company; 3

(3) Order a refund or credit to a retail electric customer; 4

(4) Cancel a contract or part of a contract between a retail electric customer and a 5

market participant; or 6

(5) Issue a cease and desist order to a market participant or the electric company. 7

(b)(1) A civil penalty imposed by the Commission under this section shall not exceed 8

\$10,000 per violation. 9

(2) The Commission shall determine the amount of any civil penalty after 10

considering: 11

(A) The number of previous violations on the part of the market 12

participant or the electric company; 13

(B) The gravity and duration of the current violation; and 14

(C) The good faith of the market participant or the electric company in 15

attempting to achieve compliance after notification of the violation. 16

(c) The Commission may temporarily suspend a license, issue a temporary cease and 17

desist order, or take any other appropriate temporary remedial action, pending a final 18

determination after notice and hearing, if the Commission determines that there is probable 19

cause to believe that consumers or the reliability of electric supply in the District of Columbia 20

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will be harmed by the actions of a market participant or the electric company. 1

(d) A proceeding under this section may be initiated by the Commission, the Office of 2
the People's Counsel, the Office of the Corporation Counsel, or any aggrieved party. 3

(e) In connection with a proceeding under this section, a market participant or the 4
electric company shall provide to the Commission access to any accounts, books, papers, and 5
documents which the Commission considers necessary to resolve the matter. 6

Sec. 109. Standard offer service. 7

(a) Standard offer service is electricity supply made available on and after the initial 8
implementation date to: 9

(1) Customers not yet allowed to choose an electricity supplier under the phase- 10
in of customer choice under section 102 of this act; 11

(2) Customers who contract for electricity with an electricity supplier, but who 12
fail to receive delivery of electricity under such contracts; 13

(3) Customers who cannot arrange to purchase electricity from an electricity 14
supplier; and 15

(4) Customers who do not choose an electricity supplier. 16

(b)(1) Standard offer service shall be provided by the electric company from the initial 17
implementation date through January 1, 2005. 18

(2)(A) The rate cap specified in subsection (b)(2)(B) of this section shall apply 19
beginning on the initial implementation date, and shall end on January 1, 2005. 20

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(B)(i) Subject to the time limitation in subsection (b)(2)(A) of this section, and except for the charges specified in subsection (b)(2)(B)(ii) of this section, the total rate charged to a customer receiving standard offer service shall not exceed the total of the rates authorized by the Commission and charged to that customer on December 31, 1999.

(ii) The rate cap specified in subsection (b)(2)(B)(i) of this section shall not apply to charges imposed for the recovery of costs under section 111 of this act.

(3)(A) During the period in which the rate cap specified in subsection (b)(2) of this section is in effect, the Commission shall have the authority to set, in a manner that is just, reasonable, and non-discriminatory, the rate charged to a customer receiving standard offer service.

(B) The Commission shall ensure that any rate cut promulgated pursuant to subsection (b)(3)(A) of this section does not hinder the development of a competitive market for electricity supply.

(4) During the period in which the rate cap in subsection (b)(3)(A) is in effect, the Commission may allow the recovery of any extraordinary costs based on the circumstances of the electric company if the Commission determines that the action is necessary and in the public interest.

(c) On or before January 1, 2004, the Commission shall adopt regulations or issue orders establishing terms and conditions for standard offer service and for the selection of an electricity supplier to provide standard offer service after January 1, 2005. Those terms and conditions shall

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include:

- (1) Protection against a standard offer service provider's failure to provide service;
- (2) An appropriate rate design, subject to the restrictions in subsection (d) of this

section;

- (3) The appropriate length of a standard offer service contract awarded under section 109(d) of this act; and

- (4) A contingency plan in the event of insufficient bids. A contingency plan may award the standard offer service to the electric company or an affiliate of the electric company if such a course of action is in the public interest.

(d)(1) After the regulations or orders mandated by section 109(c) are issued, the Commission shall administer a competitive bid process to select the standard offer service provider for the District of Columbia after January 1, 2005. The competitive selection of the standard offer service provider shall take place no later than July 1, 2004. In conducting the competitive bid process mandated by this subsection, the Commission:

- (A) Shall ensure that the price for standard offer service will not hinder the development of a competitive electricity supply market in the District of Columbia; and

- (B) May, in its discretion, solicit the payment, by the electricity supplier chosen to provide standard offer service, of a bid premium.

- (2) Any bid premium collected by the Commission under this section shall be deposited into the Reliable Energy Trust Fund established under section 114.

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Sec. 110. Transition costs, transition benefits.

(a) The electric company shall be provided an opportunity to recover all of its prudently incurred and verifiable net transition costs, subject to full mitigation, following the Commission's determination under subsection (b) of this section. In connection with the foregoing:

(1) A competitive transition charge, or other appropriate non-bypassable mechanism as determined by the Commission, may be included as part of the charge paid by every customer accessing the transmission or distribution system of the electric company.

(2) The competitive transition charge may be included on bills to customers for a period of limited duration to be determined by the Commission.

(3) The Commission may establish recovery periods of different lengths for different categories of transition costs.

(b)(1) The Commission shall determine the transition costs and the amounts thereof that the electric company may recover.

(2) In determining the electric company's transition costs, the Commission shall:

(A) Conduct public hearings; and

(B) Consider evidence appropriate to an accurate determination of the electric company's transition costs. Such evidence may include:

(i) Book value and fair market value;

(ii) Auctions and sales of comparable assets;

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(iii) Appraisals;	1
(iv) The revenue the company would receive under rate-of-return regulation;	2
(v) The revenue the company would receive in a restructured electricity supply market; and	3
(vi) Computer simulations provided to the Commission.	4
(3) If the Commission determines that the electric company will incur transition costs, the Commission shall determine the extent of the permitted recovery based on the following factors:	5
(A) The prudence of the original investment and the prudence of the continued management of the investment;	6
(B) Whether the investment was mandated by law, regulation, or order;	7
(C) Whether the amount at issue has been fully verified and minimized;	8
(D) Whether the investment continues to be used and useful;	9
(E) Whether the loss is one of which investors can be said to have reasonably borne the risk;	10
(F) Whether investors have already been compensated for the risk;	11
(G) The financial integrity of the electric company;	12
(H) Whether the investment was made to satisfy the need to ensure the availability of reliable electric service;	13
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- (I) For costs incurred or to be incurred as a result of electric industry restructuring or the establishment of customer choice, whether such costs are reasonable; and
- (J) The impact of a recovery of transition costs on the development of effective competition in the market for electricity supply, billing, or the market for any component of electric service declared by the Commission to be a potentially competitive service under section 104(e).
- (c) The Commission shall establish procedures for an annual review of actual market conditions to determine if the authorized competitive transition charge is overcompensating or undercompensating the electric company for the transition costs established under subsection (b)(3) of this section. If an annual review demonstrates that the authorized competitive transition charge is overcompensating or undercompensating the electric company for the transition costs established under subsection (b)(3) of this section, the Commission shall adjust the competitive transition charge accordingly.
- Sec. 111. Recovery for public purpose programs.
- (a)(1) The electric company may make an application to the Commission to recover all costs that have been or will be incurred by the electric company under public purpose programs established by law or ordered by the Commission, including the consumer education program established under section 104. To the extent determined by the Commission to be just and reasonable, the Commission shall allow the electric company to recover such costs.
- (2) In determining whether an electric company should be permitted to recover

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costs defined by this section, the Commission shall ensure that such costs: 1

(A) Have not been or will not be recovered through rates charged by the 2
electric company; 3

(B) Have not been or will not be recovered through the sale of any or all 4
of the electric company's generation assets; or 5

(C) Have not or will not be recovered through a competitive transition 6
charge imposed under section 110. 7

(b) All costs recoverable under this section may be recovered through a surcharge or 8
other appropriate cost recovery mechanism to be determined by the Commission. 9

Sec. 112. Market power remediation. 10

(a) The Commission and the Office of the People's Counsel shall monitor the District of 11
Columbia retail markets for electricity supply and services declared by the Commission to be 12
potentially competitive services to ensure that the markets are not being adversely affected by 13
anticompetitive conduct and anticompetitive conditions. 14

(b)(1) If, as a result of the monitoring efforts required by subsection (a) of this section or 15
as a result of a complaint filed by any interested party, the Commission determines that the 16
District of Columbia retail markets for electricity supply or services declared by the Commission 17
to be potentially competitive services are being adversely affected by anticompetitive conduct or 18
anticompetitive conditions that result from transmission constraints or load pockets, the 19
Commission may take remedial action, including the imposition of price caps or other price 20

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restrictions, to address the impact of the anticompetitive conduct or anticompetitive conditions. 1

(2)(A) If, as a result of the monitoring efforts required by subsection (a) of this 2
section, the Commission or the Office of the People's Counsel obtain evidence that the retail 3
markets for electricity supply or services declared by the Commission to be potentially 4
competitive services are being affected by anticompetitive conduct or anticompetitive conditions 5
other than the anticompetitive conduct or anticompetitive conditions described in subsection 6
(b)(1) of this section, the Commission or the Office of the People's Counsel shall transmit such 7
evidence to the Office of the Corporation Counsel, the Department of Justice, the Federal Trade 8
Commission, and any other appropriate federal agency. 9

(B) Within 6 months of the transmittal of evidence by the Commission or 10
the Office of the People's Counsel under subsection (b)(2)(A) of this section, the Office of the 11
Corporation Counsel shall issue a report to the Council of the District of Columbia explaining 12
the course of its investigation, the actions that it has taken or plans to take, and reasons for those 13
actions. The failure of the Office of the Corporation Counsel to bring an action within 6 months 14
of the receipt of the transmittal shall not be deemed to eliminate the Office of the Corporation 15
Counsel's otherwise existing authority to act. Any report submitted pursuant to this subsection 16
shall not include any information which may compromise any investigation. 17

(c) Nothing in this section shall affect the authority of the Office of the Corporation 18
Counsel to investigate or take action against anticompetitive conduct or anticompetitive 19
conditions on its own initiative. 20

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(d)(1) The Commission is authorized to participate in any meetings convened or 1
organizations formed for the purpose of monitoring and preventing the acquisition or exercise of 2
market power in the regional transmission system serving the District of Columbia. 3

(2) The Commission is authorized to enter into an agreement with state 4
regulatory agencies, independent system operators, and other parties for the purpose of 5
monitoring and preventing the acquisition or exercise of market power in the regional 6
transmission system serving the District of Columbia. 7

Sec. 113. Provision of electricity supply by the electric company. 8

(a) Other than its provision of standard offer service, the electric company may not 9
engage in the business of an electricity supplier in the District of Columbia unless it does so 10
through an affiliate. 11

(b) An affiliate of the electric company may engage in the business of an electricity 12
supplier in the District of Columbia only upon obtaining a license pursuant to Section 105. 13

(c) The Commission shall develop a code of conduct between the electric company and 14
its affiliate which establishes functional, operational, structural, and legal separation between the 15
electric company and the affiliate, and which prevents the electric company from subsidizing the 16
activities of the affiliate. The code of conduct required by this subsection shall include, but is 17
not limited to, the following protections: 18

(1) A prohibition on the release of proprietary customer information from the 19
electric company to the affiliate; 20

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- (2) A prohibition on the use by the affiliate of office space owned and used by
the electric company; 1 2
- (3) A prohibition on the sharing of employees by the electric company and the
affiliate; 3 4
- (4) A requirement that the electric company and the affiliate maintain separate
books and records; and 5 6
- (5) A requirement that the electric company and the affiliate allocate and account
for all shared corporate services. 7 8
- Sec. 114. Reliable energy trust fund; public purpose programs. 9
- (a)(1) There is hereby established the Reliable Energy Trust Fund, which shall be a
proprietary fund in the nature of an enterprise fund as classified under section 4(a) of the District
of Columbia Fund Accounting Act of 1980, effective June 4, 1980 (D.C. Law 3-70; D.C. Code
§ 47-373(a)). 10 11 12 13
- (2) The electric company shall remit all proceeds collected pursuant to
subsection (b) of this section to the Mayor on a monthly basis. The Mayor shall deposit those
proceeds into the Reliable Energy Trust Fund. All proceeds collected by the electric company
pursuant to subsection (b) of this section shall be credited to the Reliable Energy Trust Fund
without regard to fiscal year limitation. 14 15 16 17 18
- (3) All interest earned on monies deposited in the Reliable Energy Trust Fund
shall be credited to the Reliable Energy Trust Fund and shall be used solely for the purposes 19 20

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designated in this section.

(4) All revenue credited to the Reliable Energy Trust Fund is specifically designated to fund the programs mandated by subsection (c) of this section, and shall not be used for any other purpose.

(b)(1) All customers other than those participating in the universal service program developed pursuant to subsection (c)(1)(A) of this section shall contribute to the funding of the Reliable Energy Trust Fund through a non-bypassable charge collected by the electric company.

(2)(A) The charge mandated by subsection (b)(1) of this section shall be determined by the Commission, and may not vary by customer class.

(B) Notwithstanding any other provision of this act, for four years after the initial implementation date, the charge mandated by this section shall not exceed \$0.0004 \$0.0008 per kilowatt-hour.

(C) After the four-year period designated by subsection (b)(2)(B) of this section, the charge mandated by this section shall not exceed \$0.002 per kilowatt-hour.

(3) On an annual basis, the Commission shall evaluate the charge mandated by subsection (b)(1) of this section to determine whether it is set at an appropriate level to fund the programs mandated by subsection (c) of this section. Subject to the restriction in subsection (b)(2) of this section, the Commission may adjust the charge if the Commission finds that the charge is not set at an appropriate level.

(c)(1)(A) The Commission shall establish a universal service program to assist low-

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income customers in the District of Columbia. 1

(B) The program developed pursuant to subsection (c)(1)(A) of this 2
section shall be administered by the District of Columbia Office of Energy. 3

(2)(A) The Commission shall establish a program to promote energy efficiency in 4
the District of Columbia. 5

(B) The program developed by the Commission in accordance with 6
subsection (c)(2)(A) of this section may include: 7

(i) Rate discounts, or other rate-related incentives; 8

(ii) Financing of activities of energy service companies; 9

(iii) Certification standards for energy service companies; 10

(iv) Financial incentives for owners of low-income residential 11
properties; and 12

(v) Energy efficiency assistance to retail electric customers who 13
qualify for the universal service program under subsection (c)(1)(A) of this section. 14

(C) In the discretion of the Commission, the energy efficiency program 15
established pursuant to subsection (c)(2)(A) of this section may be administered by the District of 16
Columbia Office of Energy. 17

(3) The Commission shall establish a program to promote the use of electricity 18
from renewable energy sources as defined in section 118 of this act. The program established 19
pursuant to this subsection may include the use of rebates to customers who purchase electricity 20

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from renewable energy sources as defined in section 118 of this act.

(d) In the discretion of the Commission, and to the extent allowed by District of Columbia or federal law, the universal service, energy efficiency, and renewable source programs developed pursuant to this section may be combined with any existing universal service, energy efficiency, or renewable source programs administered by the Commission or the District of Columbia Office of Energy.

Sec. 115. Aggregation programs.

(a)(1) The Mayor may develop and administer a municipal aggregation program or municipal aggregation programs for the purchase of electricity supply and electricity supply services by District of Columbia ratepayers.

(2) The Mayor, in conjunction with the Commission, shall issue regulations governing a municipal aggregation program or municipal aggregation programs implemented under this section.

(b)(1) The Office of the People's Counsel shall provide assistance to any person seeking to implement a customer-based aggregation program. The assistance shall include help in understanding the technical and economic issues involved in purchasing electricity supply, electricity supply services, or any other service determined by the Commission to be a potentially competitive service.

(2) The Commission may adopt any reasonable regulations relating to customer-based aggregation programs that it determines to be in the public interest.

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(c) Nothing in this section shall prohibit the development and implementation of aggregation programs during the implementation of pilot programs.

Sec. 116. New generating facilities in the District of Columbia.

No person shall construct an electric generating facility for the purpose of the retail or wholesale sale of electricity unless the Commission first determines, after notice and a hearing, that the construction of the electric generating facility is in the public interest.

Sec. 117. Renewable energy sources.

(a) For the purposes of this section, "renewable energy source" means one of the following sources of energy:

- (1) solar;
- (2) wind;
- (3) tidal;
- (4) geothermal;
- (5) biomass;
- (6) hydroelectric facilities; and
- (7) digester gas.

(b) Every 6 months after the initial implementation date, each licensed electricity supplier doing business in the District of Columbia shall report to the Commission on the fuel mix of the electricity sold by the electricity supplier, including categories of electricity from coal, natural gas, nuclear, oil, hydroelectric, solar, biomass, wind, and other resources, and on

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the percentage of electricity sold by the electricity supplier which comes from renewable energy
sources.

(c)(1) On and after the initial implementation date, the Commission shall track the fuel
mix of the electricity sold in the District of Columbia and the amount of electricity from
renewable sources sold in the District of Columbia.

(2) Before July 1, 2003, and every 2 years after that date, the Commission shall
provide a report to the Council of the District of Columbia on the overall fuel mix of the
electricity sold in the District of Columbia, the amount of electricity sold in the District of
Columbia which comes from renewable energy sources, and on the feasibility of requiring each
licensed electricity supplier doing business in the District of Columbia to provide a minimum
percentage of electricity sold from renewable energy sources.

Sec. 118. Net metering.

(a) The Commission may establish a program which affords eligible customer-
generators the opportunity to participate in net energy metering.

(b) Any net energy metering program established by the Commission shall be subject to
the following:

(1) The regulations may include requirements for:

(A) Retail sellers;

(B) Owners and/or operators of distribution or transmission facilities;

(C) Providers of default service;

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- (D) Eligible customer-generators; or 1
- (E) Any combination of the foregoing, as the Commission determines 2
- will facilitate the provision of net energy metering. 3
- (2) The Commission shall ensure that the metering equipment installed for net 4
- metering shall be capable of measuring the flow of electricity in 2 directions, and shall allocate 5
- fairly the cost of such equipment and any necessary interconnection. An eligible customer- 6
- generator's net metering system for renewable resources, cogeneration, fuel cells, and 7
- microturbines shall meet all applicable safety and performance standards. The Commission may 8
- adopt by regulation additional control and testing requirements for customer-generators that the 9
- Commission determines are necessary to protect public safety and system reliability. 10
- (3) If the electricity supplied by an electricity supplier exceeds the electricity 11
- generated by the customer-generator and fed back into the electric grid during the billing period, 12
- the customer-generator shall be billed for the net electricity supplied by the electricity supplier, 13
- in accordance with net metering rules established by the Commission. 14
- (4) If electricity generated by the customer-generator and fed back into the 15
- electric grid exceeds the electricity supplied by the electricity supplier, the customer generator 16
- may receive compensation based on the net metering rules established by the Commission. 17
- Sec. 119. Sale of generation assets. 18
- (a) In overseeing a sale by the electric company of any or all of its generation assets, the 19
- Commission shall ensure that the sale: 20

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- (1) Will not affect the reliability of the electricity supply in the District of Columbia in a deregulated electricity supply market; and
- (2) Will minimize market power problems in a deregulated electricity supply market.
- (b)(1) The electric company may not sell any of its generation assets to an affiliate of the electric company.
- (2)(A) By the initial implementation date, the electric company shall transfer at book value any unauctioned generation assets to an affiliate.
- (B) Relations between the affiliate identified in subsection (b)(2)(A) of this section and the electric company shall be governed by a code of conduct, to be issued by the Commission, which establishes functional, operational, structural, and legal separation between the electric company and the affiliate, and which prevents the electric company from subsidizing the activities of the affiliate. The code of conduct required by this subsection shall include, but is not limited to, the following protections:
- (i) A prohibition on the release of proprietary customer information from the electric company to the affiliate;
- (ii) A prohibition on the use by the affiliate of office space owned and/or used by the electric company;
- (iii) A prohibition on the sharing of employees by the electric company and the affiliate;

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(iv) A requirement that the electric company and the affiliate
maintain separate books and records; and

(v) A requirement that the electric company and the affiliate
allocate and account for all shared expenses.

(c)(1) On and after the initial implementation date, the electric generating facility at
Benning Road in the District of Columbia may only be ~~used to ensure dispatched by PJM, or~~
~~must run for local reliability, thus ensuring~~ the reliability of electricity supply in the District of
Columbia.

(2) On and after the initial implementation date, the electric generating facility at
Buzzard's Point in the District of Columbia may only be ~~used to ensure dispatched by PJM, or~~
~~must run for local reliability, thus ensuring~~ the reliability of electricity supply in the District of
Columbia.

(d) Within two years after a sale by the electric company of its electric generating
facilities at Benning Road and Buzzard's Point in the District of Columbia, the Commission shall
provide a report to the Council on the feasibility of decommissioning those electric generating
facilities.

Sec. 120. Conformity with settlement agreements.

Nothing in this act shall be deemed to require the Commission to modify, set aside, or
otherwise adjust the terms of a settlement approved by the Commission in Formal Case No. #945.

To the extent the existence of such a settlement obviates the need for proceedings or findings

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such as are referred to in this act, the Commission may dispense with such proceedings or findings.

TITLE II - CONFORMING AMENDMENTS REGARDING PUBLIC UTILITIES

Sec. 201. Section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes approved March 4, 1913 (37 Stat. 974; D.C. Code § 43-101 *passim*), is amended as follows:

(a) The first sentence of Paragraph 92 (D.C. Code § 43-103) is amended by striking the period and inserting the phrase "; provided, that the supply and sale of electricity shall not be regulated by the Commission except as expressly set forth in the Retail Electric Competition and Consumer Protection Act of 1999 (Bill 13-284)." in its place.

(b) Paragraph 1 (D.C. Code § 43-101 *et seq.*) is amended as follows:

(1) The sentence of the first unnumbered paragraph is amended as follows: (A) insert the phrase "or "Public Service Commission"" after the word "Commission"; and (B) strike the phrase "created by this section" and insert the phrase "or any successor Commission, which shall include any regulatory or other body that possesses or exercises the same or similar powers, functions, duties, and obligations exercised or possessed by the Commission on the effective date of the Retail Electric Competition and Consumer Protection Act of 1999 (Bill 13-284) " in its place.

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- (2) The third unnumbered paragraph, beginning "the term "public utility", (D.C. Code § 43-203) is amended as follows: (A) insert the phrase "or "utility" or "utility company"" after the phrase "public utility"; (B) strike the phrase "electric plant, electrical corporation, waterpower company" and insert the phrase "electric company" in its place; and Add a new sentence to the end to read as follows: "Until the initial implementation date of the Retail Electric Competition and Consumer Protection Act of 1999, such term shall also include every electric generating facility owned and operated by the electric company.".
- (3) The sixth unnumbered paragraph, beginning "The word person", (D.C. Code § 43-206) is amended by striking the phrase "includes an individual and a firm or copartnership" and inserting the phrase "means every individual, corporation, company, association, joint-stock company, association, firm, partnership, or other entity" in its place.
- (4) The fourteenth unnumbered paragraph, beginning "The term "electric plant", (D.C. Code § 43-214) is amended to read as follows:
- "The term "electric plant" when used in this section means the material, equipment, and property owned and used, or to be used, by the electric company for or in connection with the transmission or distribution of electricity in the District of Columbia to a retail electric customer.".
- (5) The fifteenth unnumbered paragraph, beginning "The term "electrical corporation", (D.C. Code § 43-215) is amended as follows: (A) strike the phrase "electrical

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corporation"" and insert the phrase "electric company" in its place; (B) insert the word "and" 1
after the phrase "doing business in the District of Columbia,"; and (C) strike the phrase "owning, 2
operating, controlling, or managing any electric plant, including any water plant, or water 3
property, or water falls, or dam, or waterpower stations, except where electricity is made, 4
generated, produced, or transmitted by a private person or private corporation on or through 5
private property solely for its own use or the use of tenants of its building and not for sale to or 6
for the use of others" and insert the phrase "physically transmitting or distributing electricity in 7
the District of Columbia to retail electric customers. The term excludes any building owner, 8
lessee, or manager who, respectively, owns, leases, or manages, the internal distribution system 9
serving the building and who supplies electricity and other related electricity services solely to 10
occupants of the building for use by the occupants." 11

(6) The seventeenth unnumbered paragraph, beginning "The "waterpower 12
company"", (D.C. Code § 43-216) is repealed. 13

(7) A new unnumbered paragraph is added to the end to read as follows: 14

"The term "electric generating facility" when used in this section means all buildings, 15
easements, real estate, mains, pipes, conduits, fixtures, meters, wires, poles, lamps, devices, and 16
materials of any kind operated, owned, used, or to be used by a person for the generation of 17
electricity. The term includes all buildings, easements, real estate, mains, pipes, conduits, 18
fixtures, meters, wires, poles, lamps, devices, and materials of any kind operated, owned, used, 19
or to be used by a person for cogeneration of electricity." 20

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(c) Paragraph 81 (D.C. Code § 43-302) is amended by striking the phrase "corporation,
water power".

(d) Paragraph 83 (D.C. Code § 43-304) is amended by striking the phrase ", firm, or
corporation" in the first and second sentences and inserting the phrase "by a public utility" after
the phrase "District of Columbia" in the first sentence.

(e) Paragraph 96 (D.C. Code § 43-409(b)) is amended by striking the phrase "service
company" and inserting the phrase "utility" in its place.

(f) Paragraph 38 (D.C. Code § 43-608) is amended by inserting the phrase "of any
public utility" after the word "convenient" at the end of the first sentence.

(g) Paragraph 42 of Section 8 (37 Stat. 984; D.C. Code § 43-612) is amended as
follows:

(1) The first sentence of paragraph 42(a)(3) (D.C. Code § 43-612(a)(3)) is
amended by striking the word "company" and inserting the word "public utility" in its place.

(2) Paragraph 42(b)(1) (D.C. Code § 43-612(b)(1)) is amended by inserting the
phrase ", electricity suppliers", after the phrase "public utilities".

(3) Paragraph 42(b)(2) (D.C. Code § 43-612(b)(2)) is amended by inserting the
phrase "electricity supplier and" after the word "each".

(4) The third sentence of paragraph 42(b)(2) (D.C. Code § 43-612(b)(3)) is
amended to read as follows: "If the total amount paid or obligated by the Public Service

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Commission and the People's Counsel during such fiscal year pursuant to appropriations for such
fiscal year is less than the amounts appropriated by more than 5%, the Mayor shall refund to or
credit each public utility and electricity supplier with such part of the difference, rounded to the
nearest dollar, as equals the product of the difference multiplied by the fraction, as set forth
above, representing the gross revenue of the public utility or electricity supplier relative to the
gross revenues of all public utilities and electricity suppliers.".

(h) Paragraph 43 (D.C. Code § 43-614) is amended by inserting the phrase "of any
public utility" after the word "charge".

(i) Paragraph 44 (D.C. Code § 43-615) is amended by inserting the phrase "of a public
utility" after the word "charge" and inserting the phrase "by a public utility" after the word
"supplied".

(j) Paragraph 54 (D.C. Code § 43-801) is amended by striking the word "corporation"
after the word "electric" and inserting the word "company" in its place.

(k) Paragraph 55 (D.C. Code § 43-1001) is amended as follows:

(1) The first unnumbered paragraph (D.C. Code § 43-1001(1)) is amended as
follows: (A) strike the phrase "electrical corporations" and insert the phrase "electric companies"
in its place; and (B) strike the word "corporation" after the phrase "operated by any" and insert
the word "person" in its place.

(2) The second unnumbered paragraph (D.C. Code § 43-1001(2)) is amended as

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follows: (A) strike the phrase "or electricity" after the phrase "and supplying gas" and insert the
phrase "and in transmitting or distributing electricity" in its place; (B) insert the phrase "with
respect to manufacturing, distributing, or supplying such gas, or with respect to transmitting or
distributing such electricity" after the word "improvements"; (C) strike the word "thereof" and
insert "of gas or the transmission or distribution of electricity" in its place; and (D) strike the
phrase "electrical corporations" and inserting the phrase "electric companies" in its place.

(3) The first two sentences of the third unnumbered paragraph (D.C.Code §
1001(3)) are amended to read as follows: "Have power by order to fix from time to time
standards for determining the purity or the measurement of the illuminating power of gas to be
manufactured, distributed, or sold by persons or corporations for lighting, heating, or power
purposes, and to prescribe from time to time the efficiency of the electric transmission or
distribution system, and by order to require the gas so manufactured, distributed, or sold to equal
the standards so fixed by it, and to prescribe from time to time the reasonable minimum and
maximum pressure at which gas shall be delivered by said persons or corporations. For the
purpose of determining whether the gas manufactured, distributed, or sold by such persons or
corporations for lighting, heating, or power purposes conforms to the standards of illuminating
power, purity, and pressure, and for the purpose of determining whether the efficiency of the
electric transmission or distribution system conforms to the orders issued by the Commission, the
Commission shall have power, of its own motion, to examine and investigate the plants and
methods employed in manufacturing, delivering, and supplying gas or transmitting or distributing

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electricity, and shall have access, through it members or persons employed and authorized by it to
make such examinations and investigations, to all parts of the manufacturing plants owned, used,
or operated for the manufacture, transmission, or distribution of gas or the transmission or
distribution of electricity by any such person or corporation."

(l) Paragraph 56 (D.C. Code § 43-1002) is amended to read as follows:

"No person shall begin the construction of a gas plant or an electric plant without first
having obtained the permission and approval of the Commission."

(m) Paragraph 57 (D.C. Code § 43-1003) is amended as follows:

(1) The fourth unnumbered paragraph (D.C. Code § 43-1003(d)) is amended by
striking the phrase "gas corporation and electrical corporation" and inserting the word "person"
in its place.

(2) The fifth unnumbered paragraph (D.C. Code § 43-1003(e)) is amended as
follows: (A) strike the phrase "gas or electrical corporation" and insert the phrase "person
furnishing the meter" in its place; and (B) strike the word "corporation" and inserting the word
"person" in its place.

(n) Paragraph 58 (D.C. Code § 43-1004) is amended by deleting the phrase "or
electricity" and inserting the phrase "or the transmission or distribution of electricity" in its
place.

Sec. 202. The Prohibition of Electric and Gas Utility Service Terminations to Master

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Metered Apartment Buildings Act of 1980, effective July 9, 1980 (D.C. Law 3-94; D.C. Code § 43-541 *et seq.*) is amended as follows:

(a) The first sentence of section 3(a) (D.C. Code § 43-542(a)) is amended by striking the word "utility" and inserting the phrase "company, electricity supplier" after the word "electric".

(b) Section 4 (D.C. Code § 43-543) is amended as follows:

(1) Subsection (a)(1) (D.C. Code § 43-543(a)(1)) is amended by striking the word "utility" and inserting the phrase "company, electricity supplier" after the word "electric".

(2) Subsection (a)(3) (D.C. Code § 43-543(a)(3)) is amended by striking the word "utility" and inserting the phrase "electric company, electricity supplier, or gas company" in its place.

(3) Subsection (a)(4) (D.C. Code § 43-543(a)(4)) is amended by striking the word "utility" before the word "services" and striking the phrase "utility company" and inserting the phrase "electric company, electricity supplier, or gas company" in its place and striking the phrase "utility bills" and inserting the phrase "electric company, electricity supplier, or gas bills" in its place.

(4) Subsection (b) (D.C. Code § 43-543(b)) is amended by striking the word "utility" and inserting the phrase "electric company, electricity supplier, or gas" in its place.

(5) Subsection (c) (D.C. Code § 43-543(c)) is amended by striking the word "utility" and inserting the phrase "electric company, electricity supplier, or gas company" in its

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place.

(c) Section 5 (D.C. Code § 43-544) is amended by striking the word "utility" and inserting the phrase "electric company, electricity supplier, or gas" in its place.

(d) Section 7 (D.C. Code § 43-546) is amended as follows:

(1) Subsection (a) (D.C. Code § 43-546(a)) is amended as follows: (A) strike the phrase "gas or electric company" and insert the phrase "electric company, electricity supplier, or gas company" in its place; and (B) strike the word "utility".

(2) Subsection (b) (D.C. Code § 43-546(b)) is amended by striking the word "utility" before the word "services", and by striking the phrase "a utility" and inserting the phrase "an electric company, electricity supplier, or gas" before the word "company".

Sec. 203. The second unnumbered paragraph in the subheading "Lighting" under the heading "Streets" of Section 1 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred, approved March 3, 1899 (30 Stat. 1053; D.C. Code § 43-1207), is amended as follows: (a) the second proviso is amended by striking the text of the proviso after the phrase "reserved for the use of the United States and the District of Columbia"; (b) the third proviso is repealed.

Sec. 204. Section 1804(a) of the District of Columbia Public Works Act of 1954 (68 Stat. 101; D.C. Code § 43-1654(a)(1)) is amended by inserting the phrase "company, electricity

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supplier" after the word "electric",

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Sec 205. Section 3(6)(D) of the Cable Television Communications Act of 1981,
effective August 21, 1982 (D.C. Law 4-142; D.C. Code § 43-1802(6)(D) is amended to read as
follows:

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"Of any electric company used solely for operating its electricity transmission or
distribution systems."

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Sec. 206. Section 3(1)(E) of the District of Columbia Public Utility Environmental
Impact Statement Requirement Act of 1989, approved August 1, 1989 (D.C. Law 8-45; D.C.
Code § 43-1902(1)(E)) is amended by striking the word "utility" and inserting the word
"company" in its place.

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Sec. 207. The Cogeneration Facilities Appropriateness Standards Act of 1994, approved
May 21, 1994 (D.C. Law 10-120; D.C. Code § 43-2001 *et seq.*), is repealed.

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TITLE III - OTHER CONFORMING AMENDMENTS

13

Sec. 301. Section 1 of An Act to regulate electrical wiring in the District of Columbia,
approved April 26, 1904 (33 Stat. 306; D.C. Code § 1-1019) is amended by striking the phrase
"Department of Finance" and inserting the phrase "Office of Tax" in its place and striking the
phrase "the power plants or buildings of incorporated companies" and inserting the phrase "any
electric company or electricity supplier facility or equipment" in its place and striking the word
"and" after the word "production" and inserting the phrase "transmission or" in its place.

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phrase "the power plants or buildings of incorporated companies" and inserting the phrase "any 17
electric company or electricity supplier facility or equipment" in its place and striking the word 18
"and" after the word "production" and inserting the phrase "transmission or" in its place. 19

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Sec. 302. Section 5(d)(1) of The District of Columbia Redevelopment Act of 1945 approved August 2, 1946 (60 Stat. 793; D.C. Code § 5-804(d)(1)) is amended by striking the phrase "plant, electrical corporation" and inserting the phrase "company, electricity supplier" in its place, and striking the phrase "43-212 to 43-221" and inserting the phrase "Chapter 2 of Title 43" in its place.

Sec. 303. Section 4(b)(1) of The District of Columbia Public Utilities Reimbursement Act of 1972, approved October 14, 1972 (86 Stat. 812; D.C. Code § 7-135) is amended by striking the phrase "plant, electrical corporation" and inserting the phrase "company, electricity supplier" in its place, and striking the phrase "43-212 to 43-221" and inserting the phrase "Chapter 2 of Title 43" in its place.

Title IV -- Fiscal Impact

Sec. 401. The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Title V -- Effective Date

Sec. 501. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of

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Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule	1
Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in	2
the District of Columbia Register.	3